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Paper No. 6

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OFFICE OF PETITIONS

In re Application of
Gerald L. Larson
Application No. 09/702,151
Filed: 30 October, 2000
Attorney Docket No. D-5013

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: ON PETITION
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This is a decision on the petition, filed on 23 October, 2002, under 37 CFR 1.137(a) which is first treated as a petition to withdraw the holding of abandonment for the above-identified application.

The petition to withdraw the holding of abandonment is GRANTED.

The petition under 37 CFR 1.137(a) is DISMISSED AS MOOT.

The application was held abandoned on 16 March, 2001, for failure to file a timely response to the Notice to File Missing Parts of Nonprovisional Application mailed on 15 January, 2001, requiring an oath or declaration and surcharge for its late filing, which set a (2) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 23 September, 2002.

Petitioner asserts that a proper response, including the declaration and surcharge, was mailed to the USPTO on 1 February, 2001. In support of the petition, petitioner submits a copy of the reply said to have been mailed to but not received in the U.S. Patent and Trademark Office. The document contains a certificate of mailing dated 1 February, 2001, and signed by petitioner's counsel, Jeffrey P. Calfa. Petitioners have also provided a copy of a postcard receipt itemizing the filing of a declaration and power of attorney and response to Notice of Missing Parts, identifying the application by serial number,

invention title, attorney docket number, and inventor's last name, bearing an Office-date stamp of 5 February, 2001.

The petition complies with the requires set forth in 37 CFR 1.8(b).

Accordingly, the holding of abandonment withdrawn. In view thereof, the petition under 37 CFR 1.137(a) is moot. The petition fee \$110.00 is unnecessary. However, the surcharge of \$130.00 is required. Therefore, counsel's deposit account, No. 14-0603, will be charged the balance due of \$20.00.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.



Douglas I. Wood
Petitions Attorney
Office of Petitions